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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/064,574	07/28/2002	Richard David Davis	RD01	3239
27797	7590	07/26/2004	EXAMINER	
RICHARD D. FUERLE 1711 W. RIVER RD. GRAND ISLAND, NY 14072			NGUYEN, PHUNG	
		ART UNIT		PAPER NUMBER
		2632		
DATE MAILED: 07/26/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/064,574	DAVIS, RICHARD DAVID
	Examiner	Art Unit
	Phung T Nguyen	2632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 05 May 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 15 is/are allowed.
- 6) Claim(s) 1-4,6-14,16-18 and 20 is/are rejected.
- 7) Claim(s) 5 and 19 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

1. In view of the Appeal Brief filed on 05/05/04, PROSECUTION IS HEREBY REOPENED. A new rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Drawings

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

2. **Replacement Drawing Sheets**

Drawing changes must be made by presenting replacement figures which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments, or remarks, section of the amendment. **Any replacement drawing sheet must be identified in the top margin as "Replacement Sheet" and include all of the figures appearing on the immediate prior version of the sheet, even though only one figure may be amended.** The figure or figure number of the amended drawing(s) must not be labeled as "amended." If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10, 13, 14, 16, 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention because:

Claim 10 is method claim which depends on apparatus claim 1.

Claims 13 and 14 are method claims which depend on apparatus claim 11.

Claims 16 and 17 are method claims which depend on apparatus claim 15.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4, 6-10, 18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friedman (U.S. Pat. 5,337,041) in view of Bowling (U.S. Pat. 6,661,344).

Regarding claim 1: Friedman discloses a personal safety guard system for stray person or pet which comprises all subject matter as follows:

- a. a transmitter 10 that comprises broadcasting means for broadcasting signals and control means 28 for turning the broadcasting means on and off (figure 1, col. 5, lines 3-38); and

a receiver 50 attachable to the pet that can receive the signals (figure 4, col. 3, lines 41-46) and comprises electronic means for recording a human voice (col. 11, lines 9-26), a switch for turning the electronic means on and off (col. 13, lines 10-17), an amplifier 226 and a speaker 68 (col. 9, lines 44-51). Friedman does not directly disclose a microphone for recording of a command spoken by a human voice. However, Bowling teaches an electronic identification system comprising a microphone 54 for recording any message (figure 3, col. 1, lines 64-67, and col. 5, lines 51-54). Therefore, it would have been obvious to the one of ordinary skill in the art at the time the invention was made to combine the teachings of Bowling and Friedman because they both a system for assisting in the recovery of lost pets. It is seen that using the microphone of Bowling in the system of Friedman would provide more convenient by allowing the user to record any message at any location as desired.

Regarding claim 2: Friedman discloses the receiver is part of a collar that fits around the neck of the pet as seen in figure 4, col. 3, lines 41-46).

Regarding claim 3: Bowling teaches the pet is a dog (col. 1, lines 18-23).

Regarding claim 4: Friedman discloses the receiver including at least one light controlled by a signal (col. 11, lines 9-14).

Regarding claim 6: Friedman discloses the transmitter is powered by at least one battery (col. 5, lines 31-33).

Regarding claim 7: Friedman discloses the receiver is powered by at least one battery (col. 6, lines 24-30).

Regarding claim 8: Friedman discloses the signals are encoded and are decoded by the receiver (col. 8, lines 15-18).

Regarding claim 9: Friedman discloses the signals are radio signals (col. 4, lines 6-10).

Regarding claim 10: The claimed limitation is already discussed in claim 1 above.

Regarding claim 18: Bowling teaches the recording is digital (col. 6, lines 9-15).

Regarding claim 20: Friedman discloses a pair of antenna wires 86a and 86b as seen in figure 4, col. 7, lines 16-18.

6. Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Friedman in view of Bowling and further in view of Bonge, Jr. (U.S. Pat. 5,872,516).

Regarding claim 11: Friedman discloses all the claimed subject matter as follows:

- a. a transmitter 10 (col. 5, lines 3-7);
- b. control means for turning the broadcasting means on and off (col. 5, lines 31-33);
- c. battery for powering the transmitter (col. 5, lines 43-49);
- d. a receiver 50 in the form of a collar (figure 4, col. 3, lines 41-46, and col. 6, lines 13-19);
- e. a light 64 (col. 11, lines 9-14);
- f. electronic means for recording a human voice and for turning on the recording when a sound signal is received (col. 11, lines 9-26);
- g. a switch for turning the electronic means on and off (col. 13, lines 10-17);
- h. amplifying the recording and a speaker 68 for converting the amplified recording into sound (figure 11, col. 9, lines 44-51);
- i. turning on the light when a light signal is received (col. 11, lines 9-14);
- j. at least one battery for powering the receiver (col. 6, lines 24-30);

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Friedman does not directly disclose a microphone for recording of a command spoken by a human voice. However, Bowling teaches an electronic identification system comprising a microphone 54 for making a digital recording of a command spoken by a human voice (figure 3, col. 1, lines 64-67, col. 5, lines 51-54, and col. 6, lines 9-15). Therefore, it would have been obvious to the one of ordinary skill in the art at the time the invention was made to combine the teachings of Bowling and Friedman because they both teach a system for assisting in the recovery of lost pets. It is seen that using the microphone of Bowling in the system of Friedman would provide more convenience by allowing the user to record any message at any location as desired.

Friedman discloses a receiver unit which includes broadcasting at least two signals visual and audible alarm indicators (col. 11, lines 9-25). Friedman and Bowling do not teach a transmitter that comprises broadcasting a radio sound signal and a radio light signal as claimed. However, Bonge, Jr. discloses an ultrasonic transceiver and remote controlled devices for pets comprising two individually modulated signals (col. 2, lines 52-57). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teaching of Bonge, Jr. in the system of the combination because they teach a system for assisting in the recovery of a stray pet. It is seen that broadcasting at least two signals of Bonge, Jr. would increase the flexibility of the system of the combination by separately controlling the visual and audible alarm indicators.

Regarding claim 12: Friedman discloses the signals are encoded and the receiver including a decoder (col. 8, lines 15-28).

Regarding claim 13: The claimed limitation is already discussed in claim 11 above.

Regarding claim 14: Friedman discloses broadcasting a light signal on the transmitter (col. 10, lines 65-68, and col. 11, lines 1-14).

Allowable Subject Matter

7. Claim 15 is allowed.

Claims 5 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

8. **Applicant's argument:**

a. Applicant argues that in Friedman's system the voice that is broadcast by the receiver is intended to be heard by people in the vicinity, not by the person wearing the device.

b. Applicant argues that Bonge's device uses ultrasound while Friedman uses radio waves. The devices are therefore incompatible and Bonge's device cannot be used in Friedman's device.

Response to argument:

a. Examiner respectfully disagrees with the Applicant's argument because it is seen that the message is not only directed to a person who finds the pet, but also to the pet wearing it. Furthermore, nowhere in the claim "the voice that is broadcast by the receiver is intended to be heard by the person/pet wearing the device" is found. Therefore, the examiner broadly interprets as claimed.

b. Examiner respectfully disagrees with the Applicant's argument because Friedman teaches transmitting an alarm condition signal. Bonge, Jr. teaches it is possible to simultaneously

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transmit two individual signals. Since they both teach a wireless communication system, it would be obvious to use the teaching of Bonge, Jr. in the system of Friedman in order to enhance the system of Friedman by sending two signals.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phung Nguyen whose telephone number is (703)308-6252. The examiner can normally be reached on Monday to Friday from 8:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel J. Wu, can be reached on (703)308-6730. The fax phone number for this Group is (703) 305-3988.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.

Examiner: Phung Nguyen



Date: July 15, 2004